

24 February 1999

CEHR-E

MEMORANDUM FOR HUMAN RESOURCES OFFICES

SUBJECT: Calculating Overtime Pay for Nonexempt Employees

1. Section 210 of the Federal Employees Pay Comparability Act of 1990 eliminated the requirement to perform overtime pay computations for Fair Labor Standards Act (FLSA) nonexempt employees under both Title 5 and the FLSA. With this change, overtime pay for nonexempt employees is computed solely under FLSA rules. Even though the regulations to implement this law were published in May 1991, the necessary changes to our payroll system to effect this change were not implemented at that time because the conversion to the Defense Finance and Accounting System (DFAS) payroll system was imminent. For many of our employees, the “new” computation of their premium pay did not become effective until the April 1996 conversion to DFAS.

2. It has come to our attention that not all of our employees have been apprised of the change and as a result, some, especially those who receive diver pay, are concerned that DFAS has incorrectly computed their overtime. The following is an explanation of how overtime is computed under the FLSA:

a. Overtime computation under the FLSA requires that an employee be paid an additional one-half of the hourly rate of the employee's total remuneration, in addition to the hourly straight-time rate. Total remuneration includes shift differential, hazard pay, holiday, Sunday, diver pay, or any other premium to which the employee is entitled. To calculate the hourly rate of total remuneration, the employee's total straight-time pay, plus all premiums, is divided by the number of hours worked. The employee receives one-half of that hourly amount in addition to the straight-time rate for all overtime hours. For example, an employee at the same grade and step as a co-worker whose schedule includes Sunday premium pay will be paid a higher overtime rate than his/her co-worker who works a Monday through Friday schedule, when both employees work 2 hours of overtime. Basically, a nonexempt employee who has no premium pay entitlements during the workweek, except overtime pay, receives one and one-half times his/her hourly rate for each overtime hour worked.

b. This situation is more pronounced for divers who earn 175 percent of WG-10, step 2 for all payable hours in a shift. This rate is the basic rate for computing overtime. But, that does not mean employees receive 1 ½ of this rate when they do overtime diving. It means the basic rate is used to compute the straight-time rate and the hourly regular rate.

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3. The enclosed examples are forwarded to assist you in explaining the correct computation of overtime to your employees.
4. Local unions that were not notified of this change prior to implementation in April 1996, should be informed at this time. Advisors should point out to union representatives that this change in computation of overtime pay is required by the Federal Employees Pay Comparability Act of 1990. Further, advisors are reminded that the union must be given advance notice, in accordance with the local collective bargaining agreement, of any meetings between managers and employees where this matter is discussed.
5. The point of contact is Cheryl Vinci (202) 761-0334.

Enclosures

/s/
SUSAN DUNCAN
Director of Human Resources

Example 1

An employee dives on Friday and also works 2 hours of non-diving overtime on Monday.

	Sun	Mon	Tues	Wed	Thurs	Fri	Sat	Total Hours	O/T Hours
Basic Schedule	0	8	8	8	8	8	0	40	
Hours of Work	0	10	8	8	8	8	0	42	2
Hours of work In excess of 8	0	2	0	0	0	0	0		
Hours counted Toward weekly O/T standard		10	8	8	8	8			

For purposes of this example, WG-10, step 2 is \$10.00 per hour, making diver pay \$17.50 per hour and employee is a WG-10/02 making \$10.00 per hour.

Employee regular rate	\$ 10.00 per hour
Diver Pay	17.50 per hour
Overtime hours	2

Total weekly remuneration	\$491.43
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Formula:

Non diver hours x regular rate (32 hours x \$10.00 per hour)	\$320.00
Diver pay (\$17.50 x 8 hours)	140.00
Straight time for 2 hours overtime (2 hours X \$10.00 per hour)	<u>20.00</u> \$480.00

Hourly regular rate (\$480 / 42 hours)	\$ 11.43
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Additional pay under FLSA $\frac{1}{2}$ X \$11.43 X 2 hours	\$ 11.43
	<u>480.00</u> \$491.43

Example 2

An employee dives for 5 hours on Saturday

	Sun	Mon	Tues	Wed	Thurs	Fri	Sat	Total Hours	O/T Hours
Basic Schedule	0	8	8	8	8	8	0	40	
Hours of Work	0	8	8	8	8	8	5	45	5
Hours of work In excess of 8	0	0	0	0	0	0	0		
Hours counted Toward weekly O/T standard		8	8	8	8	8	5		

For purposes of this example, WG-10, step 2 is \$10.00 per hour, making diver pay \$17.50 per hour.

Employee regular rate	\$ 8.00 per hour
Diver Pay	17.50 per hour
Overtime hours	5

Total weekly remuneration	\$430.15
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Formula:

Non diver hours x regular rate (40 hours x \$8.00 per hour)	\$320.00
Diver Pay (\$17.50 x 5 hours)	<u>87.50</u> \$407.50

Hourly regular rate (407.50 / 45 hours)	\$ 9.06
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Additional pay under FLSA ($\frac{1}{2}$ x \$9.06 x 5 hours)	\$ 22.65
	<u>407.50</u> \$430.15

Note in this example straight time is not also credited for the 5 hours of overtime as in example 1 because in this example the employee was diving while on overtime and gets diver pay for that entire period. In the first example, the employee was not diving during the overtime.

Example 3

Employee dives 8 hours on Thursday, 12 hours on Friday, and 10 hours on Saturday in addition to 4 hours of non-diving overtime on Monday.

	Sun	Mon	Tues	Wed	Thurs	Fri	Sat	Total Hours	O/T Hours
Basic Schedule	0	8	8	8	8	8	0	40	
Hours of Work	0	12	8	8	8	12	10	58	18
Hours of work In excess of 8	0	4	0	0	0	4	2		
Hours counted Toward weekly O/T standard		12	8	8	8	12	10		

For purposes of this example, WG-10 step 2 is \$10.00 per hour, making diver pay \$17.50 per hour and the employee makes \$12.00 per hour.

Employee regular rate	\$12.00 per hour
Diver Pay	17.50 per hour
Overtime hours	18

Total weekly remuneration \$ 994.56

Formula:

Non diver hours x regular rate (24 hours x \$12.00 per hour)	\$288.00
Diver Pay (30 hours x \$17.50)	525.00
Straight time for 4 hours overtime	<u>48.00</u>
	\$861.00

Hourly regular rate (\$861 / 58 hours)	14.84
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Additional pay under FLSA $\frac{1}{2}$ x \$14.84 x 18 hours)	\$133.56
	<u>861.00</u>
	\$ 994.56